

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

SUFFOLK COUNTY WATER AUTHORITY,

Plaintiff,

v.

THE DOW CHEMICAL COMPANY, FERRO  
CORPORATION, VULCAN MATERIALS  
COMPANY, PROCTER & GAMBLE COMPANY,  
SHELL OIL COMPANY, individually and doing  
business as SHELL CHEMICAL LP,

Defendants.

THE DOW CHEMICAL COMPANY, FERRO  
CORPORATION, and VULCAN MATERIALS  
COMPANY,

Third-Party Plaintiffs,

v.

120MARCUS REALTY LLC, 5 CUBA HILL  
OWNER LLC, 550 LIBERTY PLAZA LLC,  
AIRPORT PLAZA, LLC, ANTHONY ANTONIOU  
ANWAR CHITAYAT AS TRUSTEE OF THE  
ANWAR CHITAYAT ENVIRONMENTAL TRUST,  
CRESCENT GROUP REALTY INC., EMPIRE  
PROPERTIES LI LLC, FED 717-725 LLC, FGG  
REALTY ASSOCIATES, LLC, GSM 717-725 LLC,  
ICA 717-725 LLC, MAKO PROPERTIES, LLC,  
OMEGA MELVILLE LLC, ONE ADAMS OWNER  
LLC, SAF 717-725 LLC, STEEL FOREST, LLC, THE  
SUFFOLK COUNTY LANDBANK CORPORATION,  
TOWN OF BABYLON, and TOWN OF ISLIP,

Third-Party Defendants.

**STIPULATION**

Case No.: 2:17-cv-06980-NG-RLM

This Stipulation is entered into by and between Defendants / Third-Party Plaintiffs, The  
Dow Chemical Company (“Dow”), Ferro Corporation (“Ferro”), and Legacy Vulcan, LLC

(formerly known as Vulcan Materials Company) (“Vulcan”) (collectively, “Third-Party Plaintiffs”), and Third-Party Defendant Mako Properties, LLC (“Mako”), through their respective attorneys.

### **RECITALS**

**WHEREAS**, on November 30, 2017, Suffolk County Water Authority (“SCWA”) commenced the above action by filing a Complaint (the “Complaint”) in the United States District Court, Eastern District of New York [DE #1];

**WHEREAS**, on August 30, 2021, Third-Party Plaintiffs filed a Third-Party Complaint (the “Third-Party Complaint”) asserting third-party contribution claims (“Third-Party Contribution Claims”) as against Mako and other named third-party defendants (together “Third-Party Defendants”) [DE #195];

**WHEREAS**, on September 9, 2021, Third-Party Plaintiffs served Mako with the Third-Party Complaint via the New York Department of State, 99 Washington Avenue, Albany, New York 12210, under § 303 of the Limited Liability Company Law [DE #209];

**WHEREAS**, Mako has not yet received a copy of the Third-Party Complaint from the Secretary of State by certified mail, return receipt requested at its post office address on file in the Department of State;

**WHEREAS**, on October 5, 2021, SCWA moved this Court to sever and stay the Third-Party Contribution Claims brought by Third-Party Plaintiffs against Third-Party Defendants [DE #232; DE #241].

**WHEREAS**, on October 22, 2021, this Court issued a Memorandum and Order granting SCWA’s motion and severing and staying the Third-Party Contribution Claims “until resolution of the plaintiffs’ claims, or until further order of the Court” [DE #243].

**NOW, IN CONSIDERATION OF THE FOREGOING:**

**IT IS HEREBY STIPULATED AND AGREED** by and between the undersigned that Mako acknowledges service of the Third-Party Complaint; and

**IT IS FURTHER STIPULATED AND AGREED** that Mako's deadline to answer, move, or otherwise respond to the Third-Party Complaint is tolled and extended until thirty (30) days after the Court lifts the stay of the Third-Party Contribution Claims; and

**IT IS FURTHER STIPULATED AND AGREED** that facsimile or other electronic copies of signatures shall be deemed to be originals for all purposes.

Dated: November 11, 2021  
New York, New York

/s/ Robb Patryk  
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*Counsel for Defendant/Third-Party  
Plaintiff Legacy Vulcan, LLC, formerly  
known as Vulcan Materials Company*

**SO ORDERED:**

\_\_\_\_\_  
Honorable Nina Gershon  
United States District Judge

November \_\_\_\_, 2021